



by the Sentencing Commission's decision to make retroactive guideline provisions that mirrored the FSA's statutory changes. Because Defendant was sentenced on February 10, 2009, well before passage of the FSA and its effective date, the FSA's statutory changes are not retroactive in this case.<sup>2</sup>

Although Amendment 750 is applicable, it does not lower Defendant's sentence. A reduction of a term of imprisonment is not authorized by § 18 U.S.C. § 3582(c)(2) if the retroactive amendment does not have the effect of lowering a defendant's applicable guideline range. See USSG §1B1.10(a)(2)(B). As the facts establish that Defendant's sentence is not based on a sentencing range that has subsequently been lowered by the Sentencing Commission, this Court is without jurisdiction to consider a reduction of sentence under 18 U.S.C. § 3582(c)(2). See United States v. Trujeque, 100 F.3d 869, 871 (10th Cir. 1996).

**IT IS THEREFORE ORDERED** that Defendant's motion for reduction of sentence (Doc. 49) is **dismissed for lack of jurisdiction**.

**DATED** this 15th day of July, 2013.

  
**TERENCE KERN**  
**United States District Judge**

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<sup>2</sup> The Supreme Court's decision in Dorsey v. United States, 132 S. Ct. 2321 (2012), stands for the narrow proposition that the lower mandatory minimum provisions of the FSA apply to defendants who committed their offense before the effective date but were sentenced after the effective date. Because Defendant was sentenced before the effective date, Dorsey is also of no assistance to Defendant.